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The Opinion

Filvaroff Suggests Physical Improvements for O'Brian

by Krista Hughes

Dean David Filvaroff visited the law school on Friday, Oct. 23 and Monday, Oct. 26 primarily to discuss physical changes that he foresees for O'Brian Hall.

Filvaroff met with faculty, staff, administrators and student representatives at a luncheon in the faculty lounge to find out what our priorities are and to get feedback on some of his proposals.

The new dean is concerned with what can be done physically to O'Brian Hall to make the law school a "moderately happier place."

He proposed that the building which houses the law school is simply "not large enough to do all the things that need to be done.

Ideally, the law school should be moved to a new building, but to even be approved for such a move, the law school will have to wait in line behind several other schools within UB that also need new buildings. However, even if approval were granted immediately, Filvaroff notes, a new building would not be ready for another six to seven years.

Until that time, some more immediate concerns will have to be addressed.

Filvaroff has focused on several trouble spots which he sees as contributing to a reduced quality of student life. These include the pressures of constant traffic from non-law students through O'Brian Hall, the lack of a common meeting place, the lack of adequate office space, drastically decreasing availability of stack space in the library, and an overall "dingy," depressing look. There is essentially nothing in the layout or decor of this law school that would "bring a smile to someone's face." Dean Filvaroff wants to do something about that.

While nothing can be done to limit access of non-law students to O'Brian Hall, something will be done about their access to the law library. Student Bar Association Vice President Derek Akiwumi mentioned that he has spoken to University Provost William Greiner who may agree to allow the law library to be closed to non-law students for a period of 20 days during final exams.

Regarding the lack of office space and its ever-increasing need, Filvaroff has looked into utilizing the "terribly useful" space on each floor behind the elevators. He proposed closing off the back elevator doors on the 3rd through 7th floors, walling-in the area and creating extra offices. This could involve opening up the glassed-in walkways on the upper floors.

On the third floor this newly usable space would most likely be used to house central computer equipment. Filvaroff explained that the University has plans to become completely computerized, and Central Administration has chosen the law school to be UB's prototype.

Over the next three years, virtually every function within the law school will be computerized and hooked into a central computer.

Admissions and Records, CDO and the Alumni Association will share computer access with the law library, the deans' offices, and even faculty members who will be able to have word processors hooked up in their offices.

Computerization is going to bring the "modern age" to the law school. Filvaroff noted that the university has a substantial interest in doing this right and doing it well, so the chances for success are presumably high.

Regarding the law library, Dean Filvaroff remarked that at the present rate of acquisition, the Charles B. Sears Law Library will be full within five years. There will not be enough stack space, and ABA requirements prohibit stack space

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The SBA Subcommittee for Developing Student Issues has set forth nine categories of issues on which to base its position paper for the new dean:

1. Curriculum
2. Advisement and Support
3. Registration
4. Library
5. Ranking
6. Financial Aid/Loan Forgiveness
7. Student Lounge
8. Child Care
9. Miscellaneous

Additional student input is needed. To help develop a well thought-out position paper, please contact Lisa Sizeland or stop in at the SBA office.

THE OPINION

Volume 28, No. 5 STATE UNIVERSITY OF NEW YORK AT BUFFALO SCHOOL OF LAW October 28, 1987

Girth, First Tenured Female, Favored Hiring of Women

by Donna Crumlish

Marjorie L. Girth came to UB Law in 1971 and has since been somewhat of a trendsetter. Not only was she the first tenured female faculty member, but in September 1986 she became the first female Associate Dean. Today, her calm self-assurance reflects little of her struggle to be recognized as a professional in the traditionally male world of academia.

A minority from the beginning of her legal life, Professor Girth was one of only 12 women in a class of 550 at Harvard Law. "At that time some of the Harvard faculty, including the Dean, really thought that they were wasting space, they thought that we would do nothing with our degrees . . . at that time employment opportunities were so limited that we were *not* going to get the jobs that they were training people for."

After graduation and three years of private practice, she spent five years at the Brookings Institution in Washington, D.C. At Brookings she was involved in the research that established the factual basis for the legislative changes in the Bankruptcy Statute.

Upon hearing of the job opening at UB through a colleague, she applied for and was accepted into an open position in Commercial Law. When she arrived at UB, she was the only woman on the faculty. This disturbed Professor Girth. She saw an immediate need for female faculty members.

"I felt it was very important that the situation not continue . . . that we get more women on the faculty with different personal and academic styles."

Janet Lindgren, who is still at UB, was the next female to join Professor Girth. The buildup to our current number of female faculty members was slow and difficult.

"At that point women didn't want to be a token person and they weren't terribly enthusiastic about being number two because number one might disappear . . . but we kept up an aggressive recruiting effort after Ms. Lindgren arrived."

After the arrival of a third female faculty member the tide seemed to change. "Eventually other female candidates began to realize that the faculty was serious about having a significant number of women on the faculty."

Professor Girth described one of the pressures on the small female faculty: "Everything you do takes on excessive significance . . . your personal view unfortunately becomes characterized as the 'women's view.' "

The six or seven female faculty that Buffalo has been able to maintain on its staff over the past few years is not typical of other law schools, where there are usually only two or three female faculty members.

Professor Girth attributes this to a disposition in the academic world that is still not wholly ready to accept women as equals. She says that "if a school has a reputation for being skeptical about women's ability as scholars, they are going to have a hard time recruiting because there are places like ours where women feel more comfortable."

Professor Girth is well known in bankruptcy and commercial law circles, both inside the Law School and outside. She has served as chairperson of the Consumer Bankruptcy Committee of the ABA, was elected in 1985 to the Council of the Section on Corporation, Banking and Business Law which represents over 55,000 members.

She was also appointed by the Chief Judge of the 2nd circuit to the Merit Screening Committee for the appointment of bankruptcy judges for the Western District of New York.

Teaching Bankruptcy is still

one of her great interests, and she will be teaching a bankruptcy course again in the spring.

She recently found a new teaching instrument in a computer game she uses in the course. "I use the debtor/creditor game, which simulates a business in difficulty and needing financial reorganization . . . I found it very useful because the reorganization course in particular has a statutory background for what is a highly negotiated process and it had always been very hard for me to try and give the students a feel for the importance of negotiating in this process."

Professor Girth currently teaches section 2 Contracts, an experience she finds refreshing in many ways. "I get to know students as they enter the school and they will be here for a while . . . in addition it's interesting for me to see how contract law is evolving as a background for what I'm usually teaching in the upper level Commercial Law classes."

As a Professor, Associate Dean and Community Leader, Marjorie Girth has been a positive influence on all who come in contact with her. She is an incentive and a role model for those students who sometimes are afraid to make that first step and be "the first one."

Reaction To Candidate Finley Varied

by Sara Nichols

After a long day of interviews, faculty candidate Lucinda Finley met with students in the Faculty Lounge on Monday, October 20. An attractive well-composed white woman in her early 30's, Ms. Finley appeared weary and slightly disoriented as the meeting began, warming up as it went along. She gave no formal speech or introductory talk, preferring that students ask questions of her.

Throughout the encounter she spoke of her dissatisfaction

with the faculty at Yale (where she currently teaches), as well as her interest in teaching and research on gender roles particularly within the classroom, law school and legal profession.

Asked about her background, Ms. Finley offered no surprises. Before beginning her tenure-tracked position at Yale, she had graduated from Barnard

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Katz To Return in Fall

by Andrew Culbertson

Al Katz, a criminal law professor, will resume his teaching duties as of next September. Law School Dean Wade Newhouse, when questioned about Katz's absence, stated, "He decided to take his sick leave, which should last him until next spring." Reasons for Katz's decision weren't discussed.

The controversy surrounding Katz dates back to May of 1985, when he was arrested for mailing an obscene photo of a teenage girl. He subsequently pled guilty to a misdemeanor and was convicted, being sentenced to 30 days in jail and fined $1,000.

At the time of his conviction, Katz's future with the University was uncertain and the question arose over whether or not the University would seek his dismissal. However, according to Newhouse, Katz will definitely return next year.

inside...

Downtown Bar Seeks Greater Interaction with UB Law

by Daniel Ibarrondo

Numerous articles, essays and books have been written about the role of legal education. The bulk of these writings in recent years has focused on a "realistic" approach to the study of law or the presence or need of critical legal studies. Nationwide, law schools have been caught in the middle between an "academic" or "practical" approach to legal education.

UB Law School has experienced a dynamic and progressive growth from its days as a local law school located on Eagle Street to the national reputation that it enjoys today. The national reputation and scope of UB Law School laid the foundation for an assertive leadership position in the legal community in regards to admissions, education, bar standards and law reform.

It appears, however, that during this period of change and growth, the relationship between the law school and the downtown bar community has diminished.

All law schools, regardless of their approach to legal education, are isolated from actual practice. Some reformers, mainly practicing attorneys, feel that legal education should correspond to practice. Other reformers, mainly those in academia, feel that legal education should seek to change or improve the practice of law. For the moment, discussions on this subject seem endless and irreconcilable.

The downtown bar community as a whole, it appears, is interested in fostering more interaction with the law school. At present, they can counted on to act as judges for the Mood Court competitions, participate in the dean search, provide part-time employment for law students, participate in the various clinic programs, and help with Trial Technique.

However, there is a general feeling in the downtown bar community that there is not enough social and intellectual interaction among practicing attorneys and UB Law School faculty and students. In response to this concern, Roger Williams, Esq., United States Attorney for the Western District of New York, stated that "there needs to be better communication between the Law Alumni Association and the law school.

"We are fortunate to have a law school in the community. We participate as judges in the Moot Court competition but our involvement should not stop there. We, as practicing attorneys, could provide law students with input as far as direction is concerned."

Law schools that approach legal education as some form of social change have diminished their relationship with local bar associations. The presence of critical legal studies at UB Law has not been seen as a hindrance to the fostering of interaction between academia and the downtown community.

"The criticism surrounding critical legal studies has been blown out of proportion," said Robert Keller, Esq., of Hodgson Russ Andrews Woods & Goodyear. "The criticisms are more theoretical than real. They are more of a philosophical concern than practical. There is no real basis for the concern. UB is producing very good lawyers."

Joseph Bermingham, President of the Erie County Bar Association, acknowledged that there are some concerns among lawyers that there should be more emphasis on core curriculum courses. Some courses are difficult to fit in with legal education in the sense that students wonder what the course has to do with practicing law.

Bermingham felt that there should be more communication between the law school and the Erie County Bar Association. Although George Zimmerman is the Erie County Bar Association's liaison with the law school, they would like to get more of the faculty involved with the bar association. "There should be more social and intellectual interaction," he stated.

In reference to the "Buffalo Model" of legal education, Bermingham stated that he has no qualms about teaching law courses within a socially concerned context. "However," he emphasized, "these [courses] should not be at the expense of slighting the core curriculum of legal education. The law school in these changing times should experiment with different teaching methods so long as a standard of measurement and evaluation of the experiment exists.

"There is no problem with bringing social concerns into discussion in the classroom so long as they are taught with the competence to raise these issues in legal practice."

It appears that the Erie County Bar Association is unaware of the law school in terms of faculty, student impressions and the bar exam passing rate. Bermingham was content to know, however, that the law school is prospering.

"The purpose of law school," said Paul Weaver, Esq., of Jaeckle, Fleischmann & Mugel, "is to teach students how to work with the law." Weaver, who is not in favor of a plain practical skills approach to legal education, stated that critical legal studies has a place in legal education.

"There should be academic freedom as well as freedom of thought. At the same time, it's imporant to give students a foundation in the law. It's equally important to have a fundamental exposure to procedure and practice."

With regard to learning practical skills, Weaver would like to see more students taking advantage of the part-time clerk positions offered by the numberous firms downtown, but he understands the problem posed by the location and geographical distance of the law school.

With regards to learning practical skills, Weaver would like to see more students taking advantage of the part-time clerk positions offered by the numerous firms downtown but understands the problem posed by the location and geographical distance of the law school.

Weaver also expressed the same desire of having an increased interaction with the law school faculty and students. He feels there is something to be gained by both.

"I have gotten comments by upperclass law students who envisioned certain courses to be taught that were not available. Something can be done to provide a wide range of course offering if there was more interaction. The downtown bar community is willing to listen to students' concerns and frustrations."

Apparently, the downtown bar community is aware of law students' concerns and apprehensions about legal education. Many students have taken advantage of clinic offerings and gaining practical skills.

John Ziegler, Senior Staff Attorney of the Legal Aid Appeals Unit, felt confident of the quality of law graduates coming from UB Law School. "The school no longer has a local character and students from UB are equipped with the necessary legal concepts, as opposed to black letter law, to practice in any state.

"The purpose of law school," he stated, "is to prepare you to be a lawyer and UB Law is doing a fine job at it."

At present, George Zimmerman, Esq., of Albrecht Maguire Heffern & Gregg, past president of the bar association, faculty member and now the chairman of the law school liaison committee of the bar association, feels that the Alumni Association is a good vehicle to foster interaction.

He is trying to arrange for members of the bar to come meet the law school faculty and vice-versa. He is interested in having faculty members attend bar meetings, seminars, conferences, etc. . . . "There is a lot to be gained by both sides and Dean Filvaroff seems to be receptive to the need for interaction and the benefits that can be obtained."

First Amendment Supreme Ct. Cases Might Result In Deadlocked Decisions

by Alexei Schacht

In this year's Supreme Court term, which began on the fifth of October, the Justices have agreed to hear several important First Amendment "freedom of the press" cases. However, because the Court is functioning with only eight Justices there is the possibility that some of these cases will end in 4 to 4 deadlocks.

When there is a tie on the Court the lower court's decision is left binding on the parties but the case is not used as a national precedent. The following are summaries of some of these important "free press" cases.

United States v. Providence Journal

A Federal District Judge ordered the *Providence Journal* not to publish transcripts of conversations involving an alleged organized crime figure in Providence, Rhode Island, Raymond Patriarca, that were intercepted in illegal Federal wiretaps. The *Journal* printed the transcripts despite the order which was subsequently found to be unconstitutional.

The Federal Circuit Court of Appeals in Boston overturned the contempt citations which the District Court gave to the *Journal* and its Executive Editor Charles McC. Hauser. The Circuit Court held that one may challenge a "transparently invalid" restraint on free speech by violating it.

The central issue at stake in this case is whether the Court will alter the traditional rule that violations of even unconstitutional court orders may be punishable. For instance, in *Walder v. Birmingham* the Supreme Court upheld contempt short jail terms and monetary fines for the organizers of a peaceful demonstrations that violated an unconstitutional order. If the court is to change this rule it will likely rely on the doctrine, exemplified in the "Pentagon Papers" case, that says that all prior restraints on free speech are prima facie invalid. Also at stake is the issue of whether prior restraint is allowable for national security reasons. In this vein, the Court may look to a famous case from the Western District of Wisconsin, *United States v. The Progressive Magazine*, in which the court allowed prior restraint of an article purporting to explain how one can make a hydrogen bomb.

Hustler v. Falwell

The Court will review a $200,000 damages award to the Reverend Jerry Falwell for "intentional infliction of emotional distress" caused by a parody depicting Mr. Falwell as an incestuous alcoholic. What is notable about this case is that the lower court found the parody to be not libelous.

As such, many press groups, and others concerned with freedom of the press and of speech, fear that by upholding this award the Supreme Court could send a strong message to those who might publicly satirize and criticize public figures. That message, telling people to avoid making harsh statements even when not libelous, could have "chilling effect" on public discourse.

Virginia v. American Booksellers Association

Here the High Court will review a decision striking down a 1985 state law which restricted the manner in which certain sexually explicit materials may be displayed. The law was enacted to prevent children from being exposed to certain types of pornography. The case may well become an important precedent as to how much one's access to otherwise publishable material may be limited solely because of one's age.

Hazelwood School District v. Kuhlmeier

In another case involving the First Amendment and minors, a pubic school principal censored a student newspaper's article about teen-age sex and pregnancy. A Federal Appeals Court held that the principal's actions violated the First Amendment. Where the Court comes out on this issue may have far-reaching implications for the speech of students and minors generally.

This article was based, in part, upon reporting in *The Wall Street Journal* and *The New York Times*.

Finley

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College, went on to Columbia in law, performed the requisite judicial clerkship and then worked in a private firm in Washington, D.C. for a couple of years.

Although she said relatively little about her scholarship, Ms. Finley has published several articles on feminist topics including Transcending Equality Theory: A Way Out of the Maternity and the Workplace Debate" and "Choice and Freedom: Elusive Issues in the Search for Justice."

Through the meeting, Ms. Finley appeared confident, warm and sensitive to students' needs. Particularly impressive, and rarely demonstrated in a faculty candidate, was her emphasis on *education*. She spoke of integrating her political and theoretical views into the classroom by bringing out the people behind the cases and exposing gender, class and racial biases within the texts. Indeed, one of the many aspects of Yale which she complained about was her perception that the faculty is not interested in teaching. Ms. Finley repeatedly emphasized her close relationship to some students at Yale (particularly feminist students), speaking of them as her "colleagues." She said she felt "alienated, silenced and marginalized" from the other faculty in her scholarship at Yale and she indicated that she very much wanted to get away from that atmosphere.

She harkened amusingly to her experience of giving a work-in-progress talk at another school and receiving interesting and positive feedback, while at Yale she would be asked by her (law & economics-dominated) colleagues "where's the cost/benefit analysis in your argument?" or "why didn't you use the Coase theorem?"

Some students expressed concern that Ms. Fnidley would have difficulty adjusting to a state school after teaching at an elitist private institution like Yale. It was suggested that UB students, unlike Yalies, suffer economic hardship, often to their academic distraction.

Ms. Finley addressed these concerns relatively cursorily, stating that she would do what she could to improve student financial aid and be sensitive to poorer students' needs in the classroom.

Student reaction to Lucinda Finley seems to differ widely. Some felt that Ms. Finley was perhaps disingenuous at times and was not as strong on the issues of race and class in her analyses, as she is on gender.

Others were favorably impressed by Ms. Finley and would be pleased to have her join the faculty. We can certainly use more than one good, enthusiastic, empathetic feminist scholar at UB Law School.

Women's Bar Brings In Speakers

by Vanessa Bliss

The Women's Bar Association held a seminar on Wednesday, October 21, sponsored by the CDO. Three types of legal employment: large firm, small firm and in-house counsel were presented.

Representing large firms was Annabelle Forrestel of Phillips, Lytle, et al. Ms. Forrestel stated that large firms usually consist of 30 attorneys or more. When searching for employment with such firms, employers view favorably Law Review, Moot Court and three to four years' concentration in an area.

Highlighted by Ms. Forrestel were:

Level of Sophistication

The work is complex and current. The advantages to working with large firms is the regional and national reputation that will be gained from working with large corporations and using a wide-based networking system. The disadvantages to working with large firms is the pressure from the workload associated with long, irregular hours.

Typically, during the first two years of working for a firm, completing the work assigned is important. It will require staying at the office past 5 p.m. Also, you will be removed from client contact. Most of your work will come from other attorneys who communicate with the client. In dealing with that aspect, it may be difficult to get facts from the client.

Broader Range of Expertise

One of the advantages is the larger pool of resources available from other attorneys' areas of expertise. Coinciding with this is the number of specialized departments available to begin research and provide sources of information.

A disadvantage is that you may become departmentalized. Usually, when hired with a large firm, you are required to choose which area you want to work in. Unless the employer begins your training by exposure to all areas in the firm, you will mainly work in one area of law, i.e. contracts, with only references to the other areas.

Resources

Often a library is located within the firm. Along with standard items like McKinney's, it may be equipped with Lexis and Westlaw terminals. Also, a support system is available through the assistance of clerical personnel and paralegals. The disadvantage is the lack of control you may experience. While there may be a library, the book you are looking for may not be on the shelf, but in another attorney's office.

Compensation

One advantage is the higher salary, although you may be required to track your billable hours, which may be difficult for new attorneys.

Clients

During the first two years with the firm, you may not be required to bring in new clients. Afterwards, this may be required. The disadvantages are that the clients you may want to bring in may conflict with the existing clients and it is difficult to bring in large corporations when you've only been with the firm for a short period of time.

Social

In a large firm there are more people to meet and associate with. The firm also encourages community involvement. You can develop a reputation within a short period of time. As Ms. Forrestel stated, you can make an "initial good impression" with the firm's name behind you. The disadvantage is that the firm may be so large it can be impersonal and it may take time for decisions to be made.

Holly Hite of James N. Hite and Assoc. represented the small firms. When searching for employment with small firms, individual personality is very important. The blend of everyone's personalities will provide a smoother operated firm.

Small-firm employers favorably look for special traits within individuals that depend on experience and a distinct background. Ms. Hite recommended that you start thinking of an area of specialization now. To make yourself marketable, you must get background in areas you are interested in, not just study for three years.

To get the background you are interested in, she suggested clerking, or if you can't find a job, then volunteer. As an employer, Ms. Hite stated that there is nothing worse than a resume with no legal work experience.

Ms. Hite emphasized three types of small firms:

One-Man Dictatorship

This type of firm is started by one person. They may hire attorneys to work for them, but do not plan on extending into partnerships.

Family Structured

These firms are basically run by the family. Be sure to inquire about future advancement with such firms.

1 or 2 Attorneys, Age 50 or Older

These firms may be willing to train you, establishing a mentor relationship, to eventually take over the firm. An advantage is the employer will have a retirement system by which he will receive a percentage of income from the firm and you will have an established practice.

Other advantages are the family atmosphere created from working closely with one another. Also, the built-in flexibility and quality of life you can enjoy because of the working hours you may be able to establish. Ms. Hite also offered tips of legal work with the government.

Most government attorneys are started with high salaries and provide good training. The hours are 9 to 5 p.m., thereby appealing to women who want to have time for their families.

Some disadvantages are government attorneys don't have as much prestige as attorneys with large firms. Also, you may feel like a regular office worker because of the environment. Ms. Hite explained that when working for the IRS, she shared an office with several people and did her own typing (no support personnel), etc.

Maureen Hurley of Rich Products represented the in-house counsel. When seeking employment, she suggested working as outside counsel (for a firm) first, as you will have contact with them when working for a company. You should also have a realistic view of what is required to work as in-house counsel. You may also have more impact on the final decisions. You will also be a general practitioner, working in many areas of law. The disadvantage is that it is difficult to keep abreast of your area of expertise.

One function of in-house counsel is to advise executives of the company. This has become a trend mainly for two reasons. The first is economic, for the cost of litigation is expensive. Second, in-house counsel is easily accessible, thereby saving time required before company decisions are made.

Another function of in-house counsel is to sponsor educational programs for workers, minimizing the chances of liability of the company.

While these are things to keep in mind about large, small or in-house counsel, suggestions from the panel about interviews for all types of legal employment include:

- Know why you are interviewing that particular company or firm. What is appealing about the firm to you?
- Where will you be five years from the date of hire?
- Training policy: Will the company or firm have the resources and time to train you?
- Opportunity to try cases.
- Educational: If you decide to further your education, will the company or firm provide financial support or flexible hours?
- Don't be afraid to ask questions about the company, firm or employer. Participate in the interview.

THE GRADUATE GROUP ON HUMAN RIGHTS LAW AND POLICY

an interdisciplinary group of faculty and graduate students from law, philosophy, political science, history and anthropology, is pleased to announce its program for the fall semester. All events are free and open to the public.

NOVEMBER 5:

"Sanctuary" — This dramatic movie depicts the world refugee crisis and debates the politics of the Sanctuary movement. Filmed in Central America, Africa, the Middle East and the United States, it presents the conflict which compels the refugee to flee his homeland, the difficulties that await him in the U.S. and the assistance he receives along the way.
Presented at 3:30 p.m. in O'Brian, 108.

NOVEMBER 13:

William F. Pentney, Associate Director of the Human Rights Research and Education Centre at the University of Ottawa and Associate Professor at the Ottawa Faculty of Law, will present a talk on the Canadian Charter. He will compare the human rights provisions contained in the Charter with those in the so-called "International Bill of Rights" and the United States' Bill of Rights.
Presented at 1:30 p.m. in Baldy, 684.

NOVEMBER 18:

"Witness to Apartheid" — Archbishop Tutu is our guide to the human rights emergency in South Africa in this film. Nominated for an Academy Award, this film has been hailed as a "brave and powerful piece of journalism . . . To see these things is to know why South African blacks cannot be content, now, with piecemeal reform," (Anthony Lewis).
Presented at 3:30 p.m. in O'Brian, 108.

DECEMBER 2:

Newton Garver, Professor of Philosophy at SUNY at Buffalo, will present a paper on "Violence and Social Order."
3 p.m. in Baldy, 684.

DECEMBER 10:

Sister Kathleen Rimar, in celebration of Human Rights Day, will speak on the refugee question as she experienced it during her travels in El Salvador, Nicaragua and the Gaza Strip.
Time and place to be announced.

Moot Court Oral Argument Portion To Begin Nov. 2

by Karen A. DePalma

As reported in an earlier edition of the *Opinion*, the Moot Court Board is currently preparing for the 1987 Charles S. Desmond Moot Court Competition. This year the problem deals with the case of *Sara Adams, et al. v. United States,* which challenges the Federal Government's enactment of a Comprehensive Curriculum Law.

The Comprehensive Curriculum Law requires the states to institute a program of values education (as established by the United States Department of Education) or forego all federal financial assistance. A number of interesting issues are presented in *Sara Adams, et al. v. United States,* including issues related to: taxpayer standing to challenge the law, congressional power to regulate the states, the free exercise clause of the First Amendment.

Students participating in the competition have already submitted their preliminary outlines and their final appellate briefs are due by 5:00 P.M. Friday, October 23, 1987. Following submission of appellate briefs, the oral arguments portion of the competition begins on Monday, November 2, 1987 with two sessions at 7:00 P.M. and 9:00 P.M. and continues at the same times on Tuesday, November 3 and Wednesday, November 4.

Each team will argue once each evening and from these three preliminary rounds of oral arguments, quarterfinalists will be selected to argue on Thursday, November 5, semifinalists on Friday, November 6. The finals will take place on Saturday, November 7, 1987 at 2:00 P.M. in the Moot Court Room.

The Charles S. Desmond Moot Court Competition was named in honor of Judge Charles S. Desmond, a nationally recognized judge and legal scholar from Eden, New York, who served 26 years on the New York State Court of Appeals, was its Chief Judge from 1960-66, and also taught an appellate advocacy course at our law school. Judge Desmond died on February 9, 1987 and so this year's competition marks the First Annual Charles S. Desmond Memorial Moot Court Competition.

To commemorate this event, the Moot Court Board has planned a special tribute to Judge Desmond before the final round of oral arguments on Saturday, November 7th.

Also, the Moot Court Board extends a special thank you to our Law School Alumni Association for their support during the 1987 Moot Court Competition. The Competition is truly a cooperative effort between the Moot Court Board, the student-participants and the Alumni Association; and our Alumni Association has been, and continues to be, an integral part of its success. We thank you!

Public Service Internship Program

The faculty is in the process of creating a university-funded public service summer internship program for a select number of second year students, beginning in the summer of 1988.

At this time, we expect to be able to place 6-10 students in interesting and challenging jobs in federal, state and local government offices, and in organizations engaged in the practice of public interest law.

Salaries will be competitive with the private sector. A committee of the faculty will be responsible for screening applications and selecting students for participation in the program.

The faculty expects the details (and funding) of this program to be settled within the next two weeks. Consequently, in the meantime, second year students interested in this opportunity are advised to delay acceptance of other summer job offers and/or to seek extensions of time in which to accept such offers.

Former UB Law Students Return as Clinic Appointees

by Idelle Abrams

Judy Gerber

Fortuity brought Judy Gerber back to UB Law School, from which she had graduated in 1984. When the Law School was notified in August that it had been awarded a one year grant from the Department of Education, Gerber packed up her belongings and arrived in Buffalo in early September to teach the education clinic with Ron Hager.

After serving as a judicial clerk to the Court of Appeals in Albany for two years, Gerber spent a year in private practice in Albany. Gerber enthusiastically embraced the opportunity to teach the clinic because she finds teaching enables her to "deal with law in a different way than I would if I were still in private practice."

Working in Albany at a firm of approximately 30 attorneys, Gerber was engaged in a commercial practice that included litigation, contracts, and perfection of security interests. Regulatory work, applying the Equal Credit Opportunity Act, was an area she found interesting. Gerber counseling lenders to assure their compliance with the provisions of the Act, which prohibits discrimination in granting credit. She also handled some consumer protection cases representing consumers in lending transactions.

Private practice was not completely satisfying for Gerber because she felt she was "not confronted with human issues that I found particularly compelling." In addition, the pressures of private practice can be "really immense and highly stressful." This is true regardless of whether you're in a small town or large city, said Gerber. Some of the pressure is external, but often it's imposed internally in an effort to do the job well.

Gerber had been a student in the education clinic when she was at UB and still finds the material interesting. However, she is not sure that education law will become her main focus. Now that she is no longer working in private practice, she has more time to explore "whatever moves me" and is taking advantage of that opportunity.

Her teaching experience includes two years as a Teaching Assistant for the Legal Methods program while a law student. Now that she is teaching the clinic, she finds she is developing a strong commitment to teaching. For Gerber, teaching provides the "opportunity for reflection and the potential to produce scholarship." At the same time it allows her to work with students in a non-traditional context, blending practice and academia.

The clinic offers students a distinctive law school experience, as Gerber sees it. It can sensitize students to professional issues that just don't arise in a traditional classroom. It also reverses the typical law school method of analysis. The case method used in the classroom begins at the end and "burrows down" to uncover the start of the case. The clinic, on the other hand, enables the student to actually construct the case, determine which issues to pursue and build the theory of the case.

Law school is also the "perfect time" for students to get experience handling a case — while being advised by clinical instructors.

The clinic also provides a setting that allows the student to get a critical perspective on what practice is like, a perspective you may not be able to get once you're caught up in it, said Gerber.

Gayle Murphy

Gayle Murphy, a 1986 graduate of UB Law School, had spent one year as an associate at Damon & Morey specializing in products liability and medical malpractice defense litigation when she was offered a one year appointment in the legal assistance clinic. The opportunity to approach cases from an academic and intellectual standpoint was "very appealing" so she grabbed the chance and is now teaching "Health Care for the Elderly" with Tony Szczygiel.

Murphy is excited about sharing her practical skills with students in the clinic. "The skills you learn working at a firm [like Damon & Morey] are excellent," said Murphy. "You're in court the day after you pass the bar exam. You get to work with good trial attorneys, and to assist on some very important trials."

Once she feels comfortable with the Medicaid laws, Murphy hopes to do some public speaking to educate the elderly population about the options available to them. Generally, however, Murphy is looking forward this year to "learning as much as I can about legal services for the elderly in terms of health care and sharing as much of what I know about practicing law with as many students as I can."

But "it's good to be back in an academic environment," she said. Murphy finds the students in the clinic to be very dedicated and the faculty to be very involved. "The enthusiasm of the faculty is so much more evident once you've worked in private practice," she said.

In teaching students how to approach and analyze cases Murphy hopes to have an impact on how they practice law. The skills Murphy learned when she was in the education clinic at UB helped shape her approach to the cases she handled once she was out of school and practicing.

While private practice enabled Murphy to develop strong practical skills, she is happy to be in an environment that places a value on theory as well as skills. The clinic challenges students to apply the law to real problems. In order to do this, "you need to know why the law is the way it is," Murphy said. Practical skills by themselves cannot carry you through. In addition, "if you don't have a broad theoretical knowledge of the legal process and all you know is hornbook law, you're going to be doing your client a disservice."

In the clinic, Murphy is supervising students as well as carrying a caseload of her own. Murphy currently spends three and a half days a week at Legal Services for the Elderly where she is becoming familiar with the office and getting to know the people. "Since this field is a new one for me, they're my resources." Murphy also spends one a half days a week at the Law School doing research.

Learning a new area of the law is "mindboggling" says Murphy. The Medicaid and Social Security laws that regulate the health services area are

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Second NAPIL Conference Covers A Variety of Topics

by Karen Comstock

The National Association for Public Interest Law (NAPIL) held its 2nd annual conference on October 9-11 in Washington, D.C. Law students formed NAPIL to remove the barriers confronting students and lawyers interested in pursuing public interest careers and to promote projects serving the underrepresented.

In 1986, at the time of NAPIL's formation, 14 law schools were represented on the Board of Directors. SUNY Buffalo is proud to be one of NAPIL's founding members. (UB's membership is through the Buffalo Public Interest Law Program.) As of October 1987, 17 more law schools have joined NAPIL, 5 law schools are organizing programs and 5 more are considering membership, bringing NAPIL's projected membership up to 41 law schools from the continential United States and Hawaii.

The conference consisted of 3 days of panel discussions, workshops, and board meetings. It concluded with a very well attended public interest employer information fair and a keynote address delivered by Ralph Nader. I attended the conference as graduate assistant for Public Interest/Public Service Careers, and Michael Kulla attended as UB's NAPIL board member and a member of BPILP.

Friday afternoon's panel discussion on Gay and Lesbian Civil Rights was moderated by four very articulate and entertaining activist lawyers: Kevin Berill from the National Gay Task Force, Paula Ettelbrick of Lambda Legal Defense, Katherine Franke from the New York City Commission on Human Rights — AIDS Discrimination Unit, and Mary Dunlap, a private attorney from San Francisco, who is probably best known for arguing the "Gay Olympics" case in front of the United States Supreme Court.

The panel members discussed several issues confronting the Gay and Lesbian community including AIDS discrimination, housing and employment discrimination, child custody issues, and violence against lesbians and gays.

What struck me about these four energetic activists was their commitment and level of optimism, warmth and humor. The panelists took great care to emphasize that any civil rights movement needs both legislative reform and grassroots organizing, leaving many of us inspired to pursue both.

The workshops were geared toward teaching practical skills in fund-raising, recruiting and education.

Since most law students are faced with high educational debts, inadequate placement resources and funding cutbacks for the public interest sector, even the most committed are finding it difficult to pursue a legal career in the public interest.

Law school loan forgiveness programs alleviate the debt burden of graduates taking low-paying public interest jobs by "forgiving" the graduate's educational loans. NAPIL is working to increase the number of loan forgiveness programs.

NAPIL's *Loan Forgiveness Report* is the nation's first comprehensive study of existing loan forgiveness programs, and the *Loan Forgiveness Action Manual* provides guidelines for students advocating for these programs at their schools.

NAPIL is undertaking a fund-raising drive aimed at the country's top law firms. A pilot project was undertaken last year in Washington, D.C. with very promising results.

The NAPIL Board of Directors (consisting solely of students) voted unanimously to expand the fund-raising effort to New York City this year. The funds raised will be allocated on a pro rata basis to member NAPIL schools, to be used exclusively to fund public interest summer grants.

Another creative fund-raising technique that NAPIL provides expertise on is income-sharing programs.

Since NAPIL's formation, over $600,000 has been distributed in the public interest, and income-sharing groups have been formed at five additional law schools.

Group members contribute 1% of their salaries to fund more than 300 summer grants and full-year fellowships annually. NAPIL published *Tithing for Justice,* a manual on organizing income-sharing programs.

NAPIL has also published *The NAPIL Fellowship Guide,* the *NAPIL Placement Bibliography,* and *The NAPIL Connection,* the organization's quarterly newsletter. These publications are available in room 620.

On Saturday afternoon, several public interest employers participated in an information fair. Employers set up tables and spoke to students about

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SBA Briefs . . . . . *by John Williams*

Student Committees Filled Quickly

The process of making appointments to the various law school committees is not an easy one. Many students think that I owe them an apology because they were not allowed to interiew for a desired committee.

The available slots for the Admissions and Special Program Committees were filled quickly. In my opinion this is unfortunate but reasonable. I sat down with a list of nine committees to be interviewed for within an 11-hour time span. The two Admissions Committees were given a total of four hours of the allotted interview time.

Several students have complained that last year was better because more time slots were devoted to the admissions process. Last year is gone! This year each applicant will be given a 10-minute as opposed to five-minute interview.

Although the actual pool of applicants is smaller, we will be able to have more informed interviews. The notion that interviewing more candidates increases the chance of selecting the "right" candidates is an idea that does not apply in this situation.

We must take notice of the fact that most students have not served on these types of committees before, especially the Admissions and Special Program Committees. We judge students on their ideas, commitment and objectivity. People are selected, not on their resumes, but on the qualities they project in their 10-minute interview. If we make mistakes we apologize, but we are only human.

A first-come, first-served sign-up process is unfortunately the fairest way to run the committee selection procedure. It is also the most reasonable in my mind. For those who were dissatisfied with the way the interviews were set up, I recommend they question next year's presidential candidates on the committee process.

Interviews for the following committees will be conducted within the next few weeks: Finance, Rules, SBA Representative to Sub Board, and the Ad Hoc Planning Committee.

THE OPINION

STATE UNIVERSITY OF NEW YORK AT BUFFALO SCHOOL OF LAW

Volume 28, No. 5 **October 28, 1987**

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Editorial

Silence Equals Death

On the 11th and 12th of this month Washington D.C. was transformed overnight into the Gay Capital of the World. Washington was a gay city and it was being straight that was suddenly the minority sexual orientation.

Lesbian and gay throngs from all over the United States converged on our nation's capital to ask and to demand what every heterosexual in the U.S. expects and takes for granted: the right to be who they are without fear of repression or violence. The March that brought out nearly half a million people is being passed off by some as simply an AIDS lobbying effort or a flash in the pan event. While AIDS is a vital issue that the lesbian and gay activists are pushing, what happened in Washington this month was a great deal more than just a populist attempt to persuade Ronald Reagan's anti-public policy of abstinence.

The slogan of the New York City gay activist groups ACT UP and The Lavender Hill Mob has an ominous ring to it: SILENCE EQUALS DEATH. But this slogan speaks to more than just the spectre of AIDS, it speaks to the repression and death of the spirit and sexuality of fifteen percent (probably more) of the population of this country. The March on Washington was not an AIDS march, it was a civil rights march. The March was a shout to be heard, to be recognized, and to be accepted as a gay or lesbian human being.

Employment discrimination, housing discrimination , threats of violence, no right to marraige, no right to raise or teach or care for children, these are the types of oppression lesbians and gays have to deal with every day of their lives if they are "out". If they are still "in the closet" they have to live with the constant repression of their sexuality and the constant assumption of heterosexuality.

Karen Thompson is a gay rights activist who spoke at the law school last spring. Karen was at the March and was quoted as she walked between the Washington Monument and the Capitol, "I'd still like to believe in these monuments. But there is no justice here. Only legal systems." If you are still wondering what your responsibility is to the gay community, as a lawyer or as a human being, think again about Karen's words.

THE OPINION MAILBOX

Gilbride Clarifies His Position

To The Editor:

I am not a member of the Federalists or any other SBA-funded organization. Because of outside commitments, I have very little time for extracurricular activities. Yet, as a law student, I gladly pay a mandatory student fee which is used to support a wide range of law student organizations.

I ask very little in exchange for my student fee. My main concern is that the fee gets spent in a manner which is fair. It is precisely this concern which prompted me to attend the SBA meetings on September 29 and October 6.

As a result of my appearances at these meetings, however, I have been accused of being intolerant of political views other than my own, spiteful, an enemy of free speech, and the reason why students lack an effective voice in the state legislature.

Most recently, in an article which appeared in the October 14 issue of *The Opinion* written by National Lawyers Guild members Andy Bechard and Molly Dwyer, my views have been misrepresented and attacked as logically flawed. I feel a response is in order.

Central to Mr. Bechard's and Ms. Dwyer's article is the contention that my views on the expenditure of SBA funds are logically inconsistent because:

(1) The Guild has already been allocated its money by a body democratically elected by all UB law students, and

(2) I support the anti-contra-aid letter writing campaign while I oppose the anti-Bork letter writing campaign and petition drive.

As a former SBA Treasurer, I feel I have some degree of experience with the allocation and expenditure of SBA funds by student organizations. In as far as I am aware, it has *never* been the position of the SBA that once an organization has received approval of its budget, the organization has the absolute right to spend the money however it sees fit, even if in conformity with the group's stated purposes.

Rather, the SBA has the right, in fact the duty, to make sure that all expenditures of student funds are consistent with SUNY Trustee guidelines, SBA guidelines, and the purposes for which the money was originally approved.

My contention in this matter is and always has been that I believe that expenditures like letter writing campaigns and petition drives are not in conformity with the SUNY guidelines as interpreted by the SBA in the past.

I voiced my concern with the SBA with the hope that they would arrive at a consistent policy on this matter. I fail to see, as Mr. Bechard and Ms. Dwyer do, that in asking the SBA to articulate a clear standard, my assertion is, in any way, logically flawed.

The second logical fallacy Mr. Bechard and Ms. Dwyer attribute to my position is that by supporting the funding of the anti-contra-aid letter writing campaign and opposing the funding of the anti-Bork letter writing campaign and petition drive, my views are logically inconsistent.

If this representation of my "position" was correct, I would have to agree with Mr. Bechard's and Ms. Dwyer's characterization of it. Mr. Bechard and Ms. Dwyer have, however, incorrectly set forth my views on this matter.

It is true that in explaining my position to the SBA I made the comment that because the anti-contra-aid letter writing campaign was in conformity with my political views it did not prompt me to question the legitimacy of these expenditures as did the anti-Bork letter writing campaign and petition drive.

Nonetheless, I made it quite clear that my opposition to these expenditures applied to both the anti-contra-aid and anti-Bork activities, regardless of my personal feelings about the cause. As much, I am sure that even Mr. Bechard and Ms. Dwyer would be inclined to agree that, when correctly stated, my position is not at all logically inconsistent.

I hope these comments help to clarify some of Mr. Bechard's and Ms. Dwyer's misperceptions.

Terry Gilbride
Third Year Student

Bork A Political Activity?

To The Editor:

Andrew Bechard and Molly Dwyer's article, "Funding Guild's Activities Preserves Political Diversity," which concerns the Student Bar Association's (SBA) attempt to define political activity, sensationalizes the issue and distorts the facts.

Though a democratically elected student body has allocated monies to the National Lawyers Guild (NLG) they do not have carte blanche to do with it as they please. The NLG, and every other student funded group, must follow various rules and regulations of the State University system, the University of Buffalo and the Buffalo Law School. The question is, have the rules been followed?

Under these rules groups are not allowed to spend mandatory activity fees on political activities. The suggestion that the anti-Bork table was a political activity was not an attempt to stifle free speech; it was, instead, an attempt to prohibit mandatory student activity fees from going to an activity arguably not allowed.

It was brought to the SBA's attention in order for them, as our elected representatives, to provide guidelines. These guidelines could have been drawn as broad or narrow as this group decided. The NLG distorted the issues to insure this was not addressed.

Further, Mr. Bechard's and Ms. Dwyer's suggestion that support of the anti-contra-aid table is contradictory to opposition to the anti-Bork table is, in their own words, "logically flawed."

To be contradictory there must be no differences that can distinguish the two. One such difference is the fact that one table deals with a political appointee while the other deals with a political issue. This difference may not be where the line should be drawn, but those who suggest such a distinction should not be painted as intolerant.

Mr. Bechard, Ms. Dwyer and the NLG have attempted to turn the issue into one of free speech and free expression. I, nor those who see a need for a definition of political activity, do not disagree with the view "that voicing your opinion and acting on that opinion is what participatory democracy is all about."

Noone has suggested we prohibit the NLG from voicing their concerns. The suggestion is that my money should not be used to send a letter to a congressman in support of actions

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Student Wants More Balanced Approach

To the Editor:

It is with some trepidation that I join the debate recently initiated by Alexei Schacht with a reply by Professor Thuronyi. But I feel strongly enough about the issue, and Mr. Thuronyi has so thoroughly missed the point, that I will attempt a response.

I, too, was non-experimented upon in my first year by assignment to section three. Like many of my sectionmates, I felt that I came away from the first year with a poor understanding of the fundamentals of law.

None of the people who I have talked to would have preferred a course in black letter law learned by rote. We do feel that we should have become minimally conversant in the language of the professions.

The point is not that any given person cannot recall a specific point of law on some occasion. That is understandable. The point is that too many of us have never been exposed to fundamental principles. That is inexcusable.

Mr. Thuronyi suggests that a bar review course or reading hornbooks will fill in these vital gaps in due time. I would suggest that the foundation of basic principles should have been laid in the first year, with our subsequent studies cementing these ideas, so that a bar review course would in fact be mostly "review." Too often many of us find ourselves backtracking to teach ourselves principles that should be familiar.

Perhaps this is an issue that the SBA could address. I would like to reiterate that I, personally, would not support a pure "black letter" approach. What is needed is more balance.

I applaud and approve of the Buffalo Model as I thought I understood it when I chose this school. Taking the needless harassment and pressure out of a legal education is worthwhile. Taking an understanding of the fundamentals out is a disservice to the students and to the reputation of this law school.

Robert E. Cuffney
Law Student

Opinion Mailbox cont. on page 9

Res Ipsa Loquitur . . . . . *by Daniel Ibarrondo*

Those Who Trespass Against Us Are Not Forgiven

by Daniel Ibarrondo

I can hear Paul Revere now if he was at UB Law riding his skateboard shouting "the undergrads are coming, the undergrads are coming." Unfortunately there is no Paul Revere among us. Somebody has got to pick up the slack or address the lack of attention that's going around these days as far as John Lord O'Brian and the Law School is concerned.

I have been deeply alarmed by the loss of control over our Law School that has been taking place since last semester. It seems as though the Law School is turning into an "undergraduate haven."

Last semester we had to live with undergraduates bombarding the Law School library. They would come in hordes and use the library facilities such as the xerox machine, study carrels and virtually all study places and/or quiet areas.

In observance, it was obvious that their general interest was in meeting "lawyers." I have nothing against meeting undergrads, they do provide a diversion in this atmosphere, but I can go over to their "territory" to do such "scoping."

This year it is not only the undergrads who have taken over, but some strange force coming from Capen has forced student clubs to double up. Meanwhile, we have virtually the whole seventh floor of the Law School occupied by the economics department.

This Law School is not a school but a department within the whole myriad that makes up SUNY at Buffalo. The Law School should be an institution in connection with SUNY with our own infrastructure controlled by our own administrators.

Last year while studying during exam week with my torts study group in Room 210, Donna, David and myself were kept from studying in the Law School for our final and only exam in torts by a group of undergraduate sorority sisters who had the room reserved for a meeting! This is outrageous. The undergrads have carrels for group study in UGL, we don't. The only places we can study as a group is in our classrooms. Check this out, it apears that if we want to study as a group in our lecture rooms during exam week, we have to reserve the room!

I don't have anything against undergrads, I think they serve some purpose in life. But, I do resent my having to deal with this "interdisciplinary" approach to legal education. This is not an argument of "ours" and "theirs." This is a plea for control of the Law School which is quickly going to that big resting place in the sky.

There is no reason why clubs should have to double up in office space if there's space available on the seventh floor. I wouldn't object to the use of the seventh floor by economic professors if they were teaching courses in the Law School related to law and economics, but they're not. In that case, the office space should be used by UB Law Student clubs. Why should the Law School have to suffer and double up because of SUNY's bad planning in constructing buildings with no lecture halls. I'm sure they wouldn't dare do this to the Medical, Dental and Pharmaceutical Schools.

Rumor has it that these schools would eventually be the only ones located on the Main Street campus, with the Law School doubling up to provide for the extra needed space. It's happening now and will continue to happen unless we act now.

Have you seen poor John Lord O'Brian lately this semester . . . he's walking about crippled and maimed crying out in vain, "I'm not a department, I'm an institution." Come back Mr. Gourman Report — don't leave — come back.

Guild Perspectives . . . . . *by Andrew Bechard and Molly Dwyer*

The AIDS Epidemic: Silence Equals Death

by Molly Dwyer and Andy Bechard

By dinner time Friday, they were noticeable. On Saturday they were ubiquitous. Pink triangles. Everywhere. 500,000 people were pouring into Washington, D.C. to take part in the March for Lesbian and Gay Rights and each was marked with a pink triangle, used by Hitler to distinguish gay men and lesbians in Germany and the occupied terriotries, as well as in concentration camps, during the Second World War. There were pins and buttons and t-shirts and earrings. Everyone was marked, either by a triangle or by the absence of one.

Dupont Circle was packed with people lining up for ice cream and Mrs. Field's chocolate chip cookies; people streaming out from the subway cheering at the sight of the crowd; people sitting on the steps in front of shops and businesses watching the multitudes surge past; people hanging out by the subway entrance and in the park waiting to meet up with friends; gangs of friends wandering the street window shopping and menu reading.

The line of people trying to get into Lambda Rising bookstore snaked in and out of the crowd for about a block. The traffic was bumper to bumper. A silver Mercedes driven by a lone man in a suit cut off a small car full of people. The man driving this car stuck his head out of the window and screamed, "What are you, straight or something?" People on the street yelled and applauded and cheered.

Marchers gathered at the Elipse at noon on Sunday to wait patiently for their turn to "stepoff" and begin the twenty-minute walk through Washington, past the White House, to the Mall and the rally. A large group of people with AIDS formed the start of the procession. Many of these men were in wheelchairs. All were supported by friends. Some people simply carried signs with the names of friends and lovers who were too sick to make the trip, or who had died.

Many of the sick had made an arduous trek from the west coast in spite of discriminatory treatment by various airlines who were reluctant to accommodate them. Many had come from New York City on a crowded commuter train offered by Amtrak at the last minute in an effort to allay the controversy surrounding their decision not to provide the more comfortable high speed train which had been promised originally. The purple lesions of Kaposi's sarcoma marked its victims more painfully than their pink triangles.

The March moved slowly, state by state from west coast to east, through streets lined with cheering, sign-carrying people. The atmosphere was one of strength and frustration and fun. The call was for basic recognition under the Constitution and even more centrally — an end to the Reagan administration's gross mishandling and/or denial of the AIDS crisis.

The New York contingent provided a graphic illustration. They arrived at the Mall at 5 o'clock, five hours after they had first gathered on the Elipse. Their spirits were still high. Hundreds led the way wearing black t-shirts emblazoned with a pink triangle and the words "Silence = Death."

On one end of the Mall, hundreds of thousands of people danced and applauded and mingled and cheered the various performers and speakers who made up the well-orchestrated rally. On the other end of the Mall, there was a completely different scene. You stepped across the sidewalk and you felt it. The silence, broken only by sobs that seemed to come from some deep, inconsolable place.

The Names Project is a huge quilt fashioned from thousands of 3x6 ft. handmade cloth panels, each one representing someone who has died of AIDS.

The Project brought 2,000 panels to Washington. They had to leave another 1,000 or so behind because they couldn't afford to fly any more weight this trip. People walked silently around the quilt, speechless at its enormity, at the pain and loss it represents. One panel was sewn from the favorite shirts of the man it was made for. One had a worn and faded jean jacket on it. One had a guitar. Several had photographs. Many had poems. Still others just had names, and dates. All had been made with love and in grief. Worried, nervous faces walked around the quilt looking for a particular name, hoping they wouldn't find it. You could hear an audible intake of breath when the name was spotted, and then, see the tears spill over.

For many, seeing the name of a loved one on the quilt represented a final closing; the concrete recognition of loss. One grief-stricken man threw himself over the name of his lover. Another man just stood at one corner of the quilt, tears streaming down his face, and said over and over, "Six of my friends are out there." Friends and strangers held one another as they cried.

As of July 20, 1987, there were 38,808 diagnosed cases of AIDS in the U.S. alone; of those 22,328 have died. [See *Radical America,* vol. 20, no.6, p. 2.] It is a disease with far- reaching political implications. From the reporting of the first cases, we have been inordinately concerned with who gets it.

AIDS has been linked to lifestyles and morality from the start. We seem to have lost sight of the fact that it is caused by a virus. Instead, we say that it is a disease of gay men, of promiscuous people, of prostitutes, of intravenous drug-users, of people who have sex with intravenous drug-users, of Haitians. These people are cast as Other. *We're* safe. *They* will get it. If we're not one of *them,* we don't have to be concerned. If a child or some perceived non-Other dies, they are cast victims. Denial is rampant.

There are many important and complicated political issues caught up in the AIDS epidemic and our response to it. What we don't talk about not only leads to political disempowerment — it can kill us. Contrary to popular belief, things don't go away just because you don't think about them, don't talk about them. We have to think about AIDS, about the ramifications it has for our lives, about ways to alter our sexual activities to ensure safety for ourselves and for our partners. We must think about the meaning behind our readiness to see this as a disease of Others, about our government's refusal to treat this as a widespread and devastating illness. Why is more money spent on researching cures for baldness than on AIDS research? Why aren't condoms advertised on television, in newspapers, on public transportation? Why are we reluctant to discuss the sexual practices that are the most risky?

Our list of questions is long and we are running out of space. We include part of the *Boston Phoenix's Safer Sex Guide* in the hopes that it might help us to start thinking about some of these questions.

If you have any questions of your own, stop by room 118 O'Brian Hall, which houses the National Lawyers Guild, the Gay Law Students Organization and *In the Public Interest* Journal. Also, The Names Project is taking the quilt on a national tour beginning in the Spring of 1988 in an effort to raise money for AIDS research. It is not too late to make a panel and have it included. If you want information on the Project, write to: The Names Project • P.O. Box 14573 • San Francisco, CA 94114 or again, stop by room 118.

Think about these things. Ask questions. Talk to other people about them. We really do believe that Silence = Death.

Start Facing The Facts And Prepare

To reduce the likelihood of your becoming infected with HIV, and hence contracting AIDS, you must:

- understand that almost anyone could be infected with the virus, so for all practical purposes there are no longer high-risk groups, only high-risk activities;
- practice safer sex every time you have sex;
- never share an IV needle with anyone for any reason;
- remember that when you are under the influence of drugs or alcohol your ability to make sound decisions about sex and your health can be severely impaired. Make sure both you and your partner understand and agree to practice safer sex before you get high. If after a few drinks you feel that it's worth jeopardizing your life to have one night of unprotected sex, your judgment is impaired.

Practicing safer sex is the only way to remain sexually active and protect yourself from exposure to HIV. Though abstinence from sex may be a viable alternative for some people, for the majority, trying to abstain from sexual contact is not realistic. You do not have to give up sex to avoid AIDS, but you absolutely must give up unsafe sexual practices and follow these safer-sex guidelines.

Vaginal intercourse

Since the AIDS virus can be transmitted by vaginal secretions, semen, and blood, in vaginal intercourse both partners are at risk. This risk is heightened if either or both the partners have cuts or sores on their genitals, through which the virus could gain easy entrance to the body.

Condoms have been shown to block the transmission of HIV; they offer the best protection against AIDS transmission through sexual intercourse. Though they can break or leak and are not a complete guarantee against HIV transmission, when used properly, with plenty of water-based lubricant, they rarely break and do reduce both partners' risk. Never reuse a condom or use an old or mistreated one. And always grasp the condom firmly at the base while the penis is being withdrawn, to prevent spillage.

Anal intercourse

Both homosexual and heterosexual couples engage in anal sex: like vaginal intercourse, anal intercourse puts both partners at risk. The anus is often tighter than the vagina and the tissues lining the walls rupture easily, allowing bleeding that may not be visible to take place. Moreover, because of the tightness of the anus, condoms are more prone to break during anal intercourse. Using plenty of water-based lubricant reduces the likelihood of the condom's breaking. It is also a good idea to withdraw

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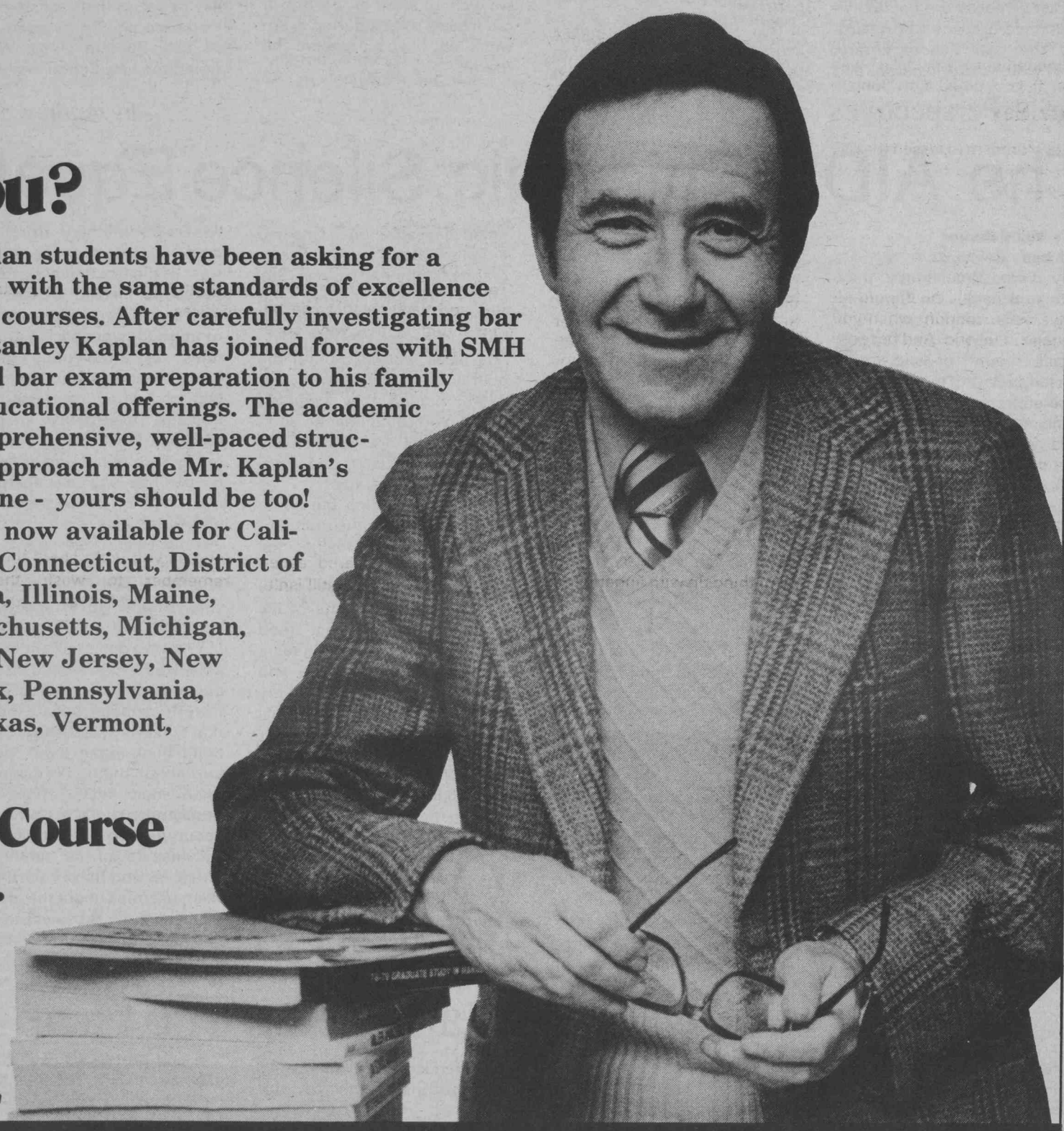
Stanley H. Kaplan has chosen his bar review.



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Rifkin Takes Time To Reflect On Efficiency Obsession

by Andrew Culbertson

Perhaps the most effective tool Jeremy Rifkin possesses is the ability to make us rethink certain values that we, as a society, have come to take for granted. For example, the concept of time, which was the subject of his discussion and is the subject of his new book, *Time Wars: The Primary Conflict in Human History*.

Rifkin describes time as "the most abstract social phenomenon." Although he admits that time has been an important issue throughout history, he feels that the obsession in this society has and has had with time is disturbing.

This so-called "obsession" with time can be traced back to the early part of this century, when Frederick Taylor espoused his "theory of scientific management." His belief was that if you timed how long it takes an assembly line worker to perform a certain function, that you could create a universal standard by which to monitor the performance of workers. In the long run, this would create efficiency within the factory. Today, according to Rifkin, Taylor's theory has been applied to many different lines of work, including supermarket checkers and secretaries.

Achieving efficiency is ultimately where the obsession lies. According to Rifkin, our society has made such an effort to become efficient, that it has, in a sense, become a prisoner of its own device. To support this conclusion, Rifkin points to the nano-second, "a time frame below the realm of perceptibility." A nano-second is one-billionth of a second, and is a measure of time that can only be comprehended by a computer.

Rifkin's point is that man is dealing with measures of time that he can't comprehend. He believes that it is possible for man to create a level of efficiency that is so high and so fast-paced, that he will be unable to keep up with it. What could happen is that we could have a society that is run by computers that would essentially take control of time. He cited an example of a factory in Japan that is totally run by computers. "With computer programs, it's possible for man to experience the unfolding of the future without actually having a role in it." In other words, we can watch the future happen without being an active participant.

To this extent, Rifkin questions whether or not efficiency is such a good thing. Another problem he sees with efficiency is what he refers to as the "quick fix versus the long-term benefit." Do we want a society made up of buildings that take six months to construct, but fall down in 40 years? Or do we want buildings that take years to build, but ultimately last for hundreds of years? Ultimately, it would appear that ultra-efficiency, or the maximization of the use of time, is a "quick fix" to achieve progress. However, maybe it's about time our society discarded the theory of "maximum efficiency," not only to preserve the quality of society, but to preserve time as we know it.

Contrary to the issues he discusses, Jeremy Rifkin's demeanor might be described as anything but heavy-handed. Suffice it to say that he would have been a great stand-up comedian. The most enjoyable aspect of the discussion was the interplay between Rifkin and the audience. At one point in the lecture, a member of the audience stated, "I think your discussion is a little one-sided." To this, Rifkin half-shouted, "Of course it is!" He then joked that if there was anyone in the audience who completely agreed with what he was saying, they should consider having their head examined.

Regarding the legal battles he has waged in Washington against genetic engineering he stated, "I won't lie to you, I love to kick ass in Washington." With comments like these, Rifkin had little trouble keeping the audience entertained. This isn't to diminish the importance of what he said. However, I am reminded of an old saying. It's not what you say, but how you say it. In Jeremy Rifkin's case, he does a good job in both departments.

Safe Sex

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before orgasm to lessen the risk of transmission from a broken condom.

Oral sex (fellatio)

Since semen is a high-risk body fluid, ejaculating into the mouth is risky. You should always use a condom when you engage in fellatio. And because small amounts of fluid are released from the penis well before orgasm, you must put the condom on *before* you begin, and take it off only when you are done, taking care to avoid oral contact with your partner's semen.

There are on the market a number of unlubricated condoms that have no odor or taste; these are well suited for use during oral sex, especially when used with a flavored water-based lubricant.

Oral sex (cunnilingus)

Since the AIDS virus has been found in vaginal secretions, menstrual blood, in saliva (in small amounts), and in the mouth when there is blood present from a cut or sore, unprotected cunnilingus is unsafe.

To avoid possible transmission of HIV during cunnilingus, always use a latex dental dam or piece of plastic wrap between the vulva and the mouth during oral sex. Take care to avoid getting vaginal fluids in the mouth. Moreover, because the AIDS virus may be present in menstrual blood, some experts suggest avoiding cunnilingus during menstruation altogether.

If you are looking for a way to free your hands during cunnilingus, you might try rigging something up with lingerie that will hold the dam in place. Some elastic straps and girdle clips, or a pair of crotchless or ordinary panties, a sewing kit, and a little imagination will enable you to solve this problem. Always use washable materials with no sharp edges, and never reuse or share a dental dam or plastic wrap.

Oral-anal contact

Though this type of sexual activity is thought to be relatively low risk, there remains the possibility that the AIDS virus could be exchanged during oral-anal sex through blood or feces. Moreover, there are many parasites and bacteria that can be transmitted in this way, so a latex dental dam or a piece of plastic wrap should be placed between the anus and the mouth to avoid the exchange of these organisms. Remember never to share or reuse the dams or the plastic wraps.

Water sports

Urinating on your partner has never been considered especially hygienic, and it still isn't. But should you engage in this practice, confine your activity to urinating on healthy, unbroken skin, and avoid all body orifices.

Masturbation

Stimulating your partner to orgasm with your hands (or a vibrator) is a relatively low-risk sexual activity, provided you and your partner have no cuts, sores, or abrasions on your skin or genitals. Once you have touched your partner's genitals, be sure not to transmit your partner's semen or vaginal fluids from your hands to your mouth, genitals, or other orifices.

If you are concerned about a cut, open sore, or broken skin on your hands or genitals, use a condom, a dental dam, or a piece of plastic wrap, or use rubber or plastic gloves while manually stimulating your partner.

The use of dildos, vibrators, and other sex toys is safe, as long as you don't share them; remember to wash them thoroughly in hot, soapy water after each use.

French (or deep) kissing

Though there has to date been no known incidence of HIV transmission resulting from deep kissing, the AIDS virus has been found in small concentrations in saliva and in higher concentrations in blood, and therefore it can, theoretically, be transmitted from mouth to mouth. For this to happen, both partners would probably have to be bleeding in their mouths and exchange quantities of blood sufficient to infect their partner.

The best way to reduce this risk is to practice good oral hygiene, but to lessen the chances of bleeding gums, avoid flossing or brushing your teeth before French kissing. To keep your breath fresh, use a mouthwash before kissing, and a toothbrush after. And be aware of the general health of your mouth, throat, and gums. If you have a cut or a sore, you should refrain from kissing.

Spermicides

There is a spermicide called Nonoxynol-9 that has been shown to kill HIV in test tubes but has not yet been proven effective in the body. Since many contraceptive sponges, foams, and jellies contain this chemical, and there seem to be no serious side effects, there is probably no harm in taking a little extra precaution by using the spermicide. However, you must also use a condom, since Nonoxynol-9 may not work as well in the body as it does in the test tube. As an extra precaution, in case the condom leaks or breaks, okay — but don't use Nonoxynol-9 instead of a condom.

Drugs and needles

If you use any IV drugs, either legal or illegal, you must never share works or cookers with anyone. The only way to ensure the sterility of your paraphernalia is to wash it thoroughly with a strong solution of bleach and water, and then rinse it completely in clean water.

Though there is no clinical evidence to date documenting nose-to-nose transmission of HIV from sharing straws or rolled-up bills while snorting cocain or speed, it seems sensible to avoid sharing such paraphernalia because of the possibility of blood in the nose.

Some final safer-sex points to keep in mind:

- Remember that protecting yourself from AIDS doesn't mean giving up sex. But it does mean modifying the way you have sex.
- Accept that AIDS is everyone's responsibility especially your own. There is no longer any such thing as a high-risk group, such as gay men, prostitutes, or IV-drug users. There are only high-risk activities that put anyone and everyone who engages in them at risk.
- Remember that condoms are not perfect protection, since they can leak or break. However, when they're used properly, the chances of this happening can be greatly reduced. Read the tips in this guide to learn how to use them safely.

There are many ways for all of us to express ourselves sexually without putting ourselves and our lovers at risk of getting AIDS. Remember that satisfying sex doesn't always have to include penetration — vaginal, oral, or anal. Be creative, romantic, and erotic, but don't ever be unsafe.

Each of usis responsible for his or her own sexual behavior. Remember it takes two to have unsafe sex, but only one to prevent it — by just saying no. Stand firm; someone who is willing to risk your life and his or her own to avoid using a condom, or any other safer-sex practice, just isn't worth having sex with.

Weekend of Death & Dying Seminar

Law students interested in the legal, ethical and policy issues involved in terminal care decision-making are invited to join their peers and a nationally recognized faculty in law, medicine, nursing, social work, chaplaincy, and health care administration at interdisciplinary workshops sponsored by Concern for Dying, a national not-for-profit educational council.

The Collaboration: A Multi-Professional Network for Death, Dying and Decision-making, was developed 10 years ago by Concern for Dying in cooperation with the American Medical Students Association, the National Student Nurses Association, and the Law Student Division of the American Bar Association.

Three student workshops scheduled for 1988 include one session on April 1-4 (Cashiers, North Carolina) for students who have had clinical experience with dying patients/clients and introductory weekends on January 15-18 (San Francisco, California) and on March 4-7 (Airlie, Virginia) that are designed for student professionals who have had little or no clinical experience.

Advanced students will join practicing professionals for a weekend dedicated to the complexities of AIDS treatment and decision-making on July 15-18 in Healdsburg, California.

Law students from across the country are invited to apply. Meeting expenses are covered by Concern for Dying, and some travel scholarships are available. Spaces are limited — apply soon.

For applications or additional information, please contact your local LSD/ABA representative or Penny B. Weingarten, Program Coordinator, Concern for Dying, 250 West 57th Street, Rm. 831, New York, NY 10107; or call collect 1-800-248-2122 (in New York, call 212-246-6962).

More Contortions From Contorts

To the Editor:

The first year of law school can be a traumatizing experience. During this period, most of us have not yet realized that it is fairly difficult to receive anything less than a "Q". Moreover, many of us have not yet learned to effectively sift through the garbage, and thus the anxiety we create for ourselves in trying to figure out just what it is we're supposed to be learning can be tremendous.

Both Contracts and Torts can be individually abstract and difficult subjects. The recent Contorts debate has centered around the relative desirability between emphasizing critical legal theory as opposed to Black Letter Law within the first year curriculum.

As a Contorts alumnus, I believe that a theoretical mix of these two subjects during this stressful and confusing period makes the mastery of both the theoretical *and* black letter aspects of these courses all the more elusive. Inclusion of this course in the first year curriculum is where the true "misallocation of resources" lies.

Michael Lavender

Miss Social Procedure

by Fiona Smythe-Horch

When Carrying Out Your Illicit Tryst, Try To Be Discreet

Dear Miss Social Procedure,

My girlfriend and I plan to take a short vacation during semester break. When we stop at a hotel for the night, I think it would be less problematic to register as Mr. and Mrs. My girlfriend wants me to register with both our names. Wouldn't it be more proper to present ourselves as a married couple?

Gentle Reader:

I've never been asked the proper way to carry out assignations but in recalling my own misspent youth, I find myself sympathetic.

Those engaged in illicit activities often imagine their antics to be as interesting to observers as they are to the participants. What, from your vantage point, appears to be a sensational good time is, to a tired room clerk, only another customer.

They are accustomed to renting rooms to unmarried couples, some of whose 'travels' consist only of riding several miles out Route 5. It is unwise to ask a hotel employee to participate in what will one day become a past indiscretion.

In the bad old days an unmarried couple often had difficulty finding accommodations but this was a time when everyone considered themselves the guardians of everyone else's morals. Hotel owners feared that unmarried couples would fall to the lobby floor and frolic unrestrainedly before school children from DuBuque.

Though I am not a stickler on what ladies do or don't do, a general rule of thumb is for a woman to busy herself elsewhere anytime a gentleman admirer is attending to matters involving an exchange of money.

At a hotel she can examine travel brochures or find something interesting out the window. If this is not possible, she can mentally remove herself by engaging her escort in light conversation while he registers.

For example, "Let's look at the map and plan a side trip for tomorrow," or "Wasn't it lovely (or awful) to see Aunt Mildred?" Even the room clerk can be drawn into the conversation with inquiries into dining room hours or local historical sites. If your companion is properly distanced from financial matters, she will be equally oblivious to the exact nature of the registration.

On a practical level, you both have an interest in not leaving a record of your time together. In future either of you may wish to present yourselves as more innocent than a hotel register may indicate. Consider the possibility of a political career. Wouldn't the *Enquirer* love to find *that* registration card when she appoints you to her cabinet!

Dear Miss Social Procedure,

From your last column, I see you are a purveyor of what you call "conversational kindness." We all know that you mean a type of lying hypocracy which is very distasteful. Why should I tell someone they look nice when they don't? Why should I say I had a good time when I didn't?

M.K.

Gentle M.K.,

Good manners and honesty often, to the casual observer, appear to be at cross purposes. Conversational kindness, rather than being predicated on fabrication, is the core of human relationships. What it requires is the instinctive translation performed by every recipient of a conversational kindness.

"What a lovely dress," "I'm so pleased for you," and "You look wonderfully well today" really mean, "You are important to me and I want you to feel good when we're together." I assume that in the name of honesty you are willing to tell someone that they are dressed incorrectly, don't deserve a happy event, or look a wreck.

Perhaps you should circumvent social intercourse altogether and simply state to every passer-by: "In hopes of making my miserable self feel better, I am willing to make you feel awful." I'm sure many people will be happy to make your acquaintance.

Filvaroff

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from encroaching on student study space.

The serious lack of space caused the immediate veto of Filvaroff's suggestion that the 5th floor A-V area be moved and converted into a student lounge/eating area, which seems to be the dean's major concern.

Filvaroff has been looking into various ways to establish a full-scale or even satellite-style cafeteria for exclusive use by the law school. His emphasis on this aspect of student life is not merely in recognition of the fact that occasionally we need to eat. Filvaroff's proposal for an eating area was to allow students and faculty to associate with each other in non-classroom settings and to create a feeling of community within the school.

SBA President John Williams remarked that acquiring more student lounge space should take precedence over a cafeteria, and students should not be expected to forfeit the limited amount of lounge space that they have.

Others, however, voiced the opposite opinion. Professor Erroll Meidinger suggested that because we have never had such a facility, we cannot know what we are missing and what it would add to the law school experience.

Professor Thomas Headrick, a former dean of the law school, remarked that when O'Brian Hall was first built, there was a law school cafeteria in the basement of adjacent Baldy Hall. Students and faculty would eat together and talk on a more casual, one-to-one basis. This, according to Headrick, created an entirely different atmosphere within the school.

Initially, Filvaroff had hoped to convert O'Brian's unused basement area into an exclusive cafeteria. This proposal has proven, however, to be cost-prohibitive.

Another idea would be to open up the 5th floor courtyard to students and install a canopy or even a roof. These proposals will be looked into, but are likely to be problematic.

The most optimistic-sounding suggestion is to open up the 4th floor student lounge and the CSEA staff lounge and create one large student/faculty lounge and possibly an eating area.

A full-scale grill operation would probably be out of the question because of ventilation problems, but a satellite such as the one along the second-floor walkway between O'Brian and Baldy could be feasible.

This proposal also has problems because of the handful of students who make regular use of the 4th floor lounge for studying. There was also the suggestion that any new food service facility is likely to draw non-law students because the Baldy satellite cannot accommodate all of the students who wish to utilize it. This problem was of concern to Dean Filvaroff because it would defeat the purpose of having a law school cafeteria.

Dean Filvaroff welcomed all of these concerns and suggestions and remarked that his job as dean will be to weigh out all of the relevant factors and eventually to come to a decision.

Filvaroff stressed that nothing is definite yet, although he would like to get some decisions made soon in order to plough through the inevitable bureaucratic red-tape as quickly as possibly.

Additional comments and suggestions would be most welcome and should be directed to Professor Lee Albert.

NAPIL

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summer and permanent employment opportunities with their organizations and gave out materials explaining their group's particular goals and concerns.

Participating organizations included the Mexican-American Legal Defense and Education Fund, the National Wildlife Federation, People for the American Way, Vietnam Veterans of American Legal Services, and many more.

I talked to many of the representatvies, and grabbed every piece of information available, which is also available in room 620 for anyone interested in checking it out.

The conference ended with a keynote address delivered by Ralph Nader. Nader encouraged the law student audience not to go through law school with a narrow mind. He stressed that law students' first priority should be to use our power to influence changes in the law school curriculum to reflect relevant societal concerns.

We should be demanding courses in Poverty Law, for example. He also stressed the need to learn about institution building, using examples of the NAACP, the NRDC and the ACLU — organizations that were formed by individuals who "stepped back from the brush fires of the day" to address the systemic causes of society's ills.

To Ralph Nader, a comprehensive legal education emphasizes a broader understanding of political, economic and social forces. By studying legal history, we can examine the mistakes of the past and use our skills and education to implement social change.

Nader also criticized the vast majority of attorneys who suffer from "retainer astigmatism," who don't look beyond the interests of their (usually high-paying) clients. He termed current law firm billing practices as "the largest form of white- collar crime in America," citing the commonplace practices of double-billing and non-itemization.

Nader ended by pointing out that students, by their unique status, are far more able to make a difference in society. He called on law students to maintain a "dynamic conscience." In answer to the question, "What is public interest," Nader replied, "Can you bring your conscience to work every day? If yes, then it's public interest."

Murphy

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complex and often unclear in their intent. "No one knows what [the Medicaid statute] is really supposed to do." Working in such a new area of law has its advantages in that "the cases we have are breaking new ground."

Teaching is not a new endeavor for Murphy. Before coming to law school, Murphy earned her B.A. and M.A. in education and taught learning disabled children for three years in public schools in Buffalo and the suburbs. Teaching these children was fun but often frustrating. "When you're so busy controlling behavior, somehow the transfer of knowledge gets lost," Murphy said.

That setting also presented a limited opportunity for growth. "In a public school system the highest you can go is principal." This option, in addition to being somewhat remote, would not have enabled her to satisfy her need to fulfill herself academically. She came to law school, in part, to see if she "could do it," and challenge herself academically.

Political Activity

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that I oppose. This is violative of my rights. [In *Golda v. Boustein,* 686 F.2d 159 (3rd Cir. 1982) rev'g, 516 F.Supp 1142 (D.N.J. 1981) the Court of Appeals for the Third Circuit held that Rutgers University could not collect a student fee to support a student group if the group's activity were essentially political.]

The fact that students have expressed concern over this issue points to the need for SBA action. Having no definition of political activity does not preserve political diversity, it only insures that views unpopular to those in power can be barred from receiving student activity fees.

Those who feel otherwise need only turn the clock back to the Spring of 1985 when the "left" effectively prohibited any student activity fee from going to the Right to Life Club because their activities were bound to be political.

James P. McClusky
Third Year SBA Director

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